

REMARKS/ARGUMENTS

Claims 1-15 in the case are pending, and stand rejected under 35 U.S.C. §102(b) as being anticipated by Toogood (US RE 36,659). Claims 5, 6, 14, and 15 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Toogood.

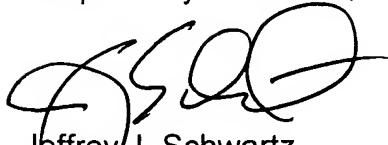
Base Claims 1 and 8 are further amended herein to recite a tooth holder having a base-engaging portion *which resides within 1/32 inches from each of the raised sides of the closed-sided tooth socket*, such that the raised sides cooperate to secure the tooth assembly and provide resistance during rotation of the cutting device.

Toogood describes a cutting device with "pockets" designed to receive respective cutting elements. While the pocket (104, 108) appears to be substantially closed-sided, *the cutting element does not reside closely adjacent each of the raised sides*. As such, the raised sides of the closed-sided pocket do not and cannot cooperate to adequately secure the cutting element on all four sides of its base. Instead, Toogood requires substantial space between at least one pocket wall and cutting element (126, 112) in order to form the **chip discharge passage (146)** in the facing element. See col. 5, Ins. 19-25; Figure 4. The claimed tooth holder of the present cutting device is spaced less than 1/32 inches from the raised sides of the tooth socket such that the raised sides cooperate to secure the tooth assembly, and provide torque and shear resistance during rotation of the cutter. This claimed feature is neither disclosed, taught or suggested in Toogood. *Indeed, including this feature in Toogood would destroy an objective of the invention—that of discharging cut debris through the pockets formed with the facing element of the chipper.*

For all these reasons discussed above, Applicant submits that all of the claims in the case are now in condition for allowance. Such action is therefore respectfully requested at an early date. If the Examiner believes that issues remain for discussion, she is invited to contact the undersigned at the telephone number indicated below.

Applicant: Shinn, Rickey D.
Serial No.: 10/760,567
Page 8

Respectfully submitted,



Jeffrey J. Schwartz
Attorney for Applicant
Registration No. 37,532

Jeffrey J. Schwartz
Schwartz Law Firm, P.C.
SouthPark Towers
6100 Fairview Road, Suite 1135
Charlotte, North Carolina 28210
Tel: 704-552-1889
Fax: 704-552-1866
Email: jjsschwartz-iplaw.com